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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE

13 IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION

Case No. 5:11-cv-2509-LHK

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15 THIS DOCUMENT RELATES TO:  
16 ALL ACTIONS  
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**DEFENDANTS' JOINT NOTICE OF  
MOTION AND MOTION FOR  
SUMMARY JUDGMENT BASED ON  
MOTION TO EXCLUDE TESTIMONY OF  
DR. EDWARD E. LEAMER, PH.D.;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

18 DATE: March 20, 2104 and  
19 March 27, 2014  
TIME: 1:30 p.m.  
20 COURTROOM: Courtroom 8, 4th Floor  
JUDGE: Hon. Lucy H. Koh

1        **DEFENDANTS' JOINT NOTICE OF MOTION AND MOTION FOR SUMMARY**  
2        **JUDGMENT BASED ON THE MOTION TO EXCLUDE THE EXPERT TESTIMONY**  
3        **OF EDWARD E. LEAMER, PH.D.**

4        **PLEASE TAKE NOTICE** that on that on March 20, 2014 at 1:30 p.m. and/or March 27,  
5        2104 at 1:30 p.m., or as soon thereafter as this matter may be heard, Defendants Adobe Systems  
6        Inc., Apple Inc., Google Inc., and Intel Corp. ("Defendants"), shall and do hereby move this  
7        Court for an order entering summary judgment in Defendants' favor pursuant to Federal Rule of  
8        Civil Procedure 56.

9        This motion is based on this Notice of Motion and Motion, the accompanying  
10       Memorandum of Points and Authorities, the Notice of Motion and Motion to Exclude the Expert  
11       Testimony of Edward E. Leamer, Ph.D., the accompanying Memorandum of Points and  
12       Authorities, the accompanying Declaration of Christina J. Brown in Support of Defendants' Joint  
13       Motion to Exclude the Expert Testimony of Edward E. Leamer, Ph.D. ("Brown Decl.") and  
14       exhibits thereto, the accompanying Declaration of Lauren J. Stiroh, Ph.D. in Support of  
15       Defendants' Joint Motion to Exclude the Expert Testimony of Edward E. Leamer, Ph.D. ("Stiroh  
16       Decl.") and exhibits thereto, Defendants' Reply Memorandum, the pleadings and files in this  
17       action, such arguments and authorities as may be presented at or before the hearing, and such  
18       other matters as the Court may consider.

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In addition to jointly moving for summary judgment based on plaintiffs' lack of evidence of impact or damages, each defendant has filed an individual motion for summary judgment directed to plaintiffs' claim that it joined an overarching conspiracy among all defendants. Plaintiffs must demonstrate that "each defendant," considered individually, made a conscious commitment to join the alleged conspiracy. *AD/SAT, Inc. v. Associated Press, et al.*, 181 F.3d 216, 234 (2d Cir. 1999). Thus, the question whether plaintiffs have made a sufficient showing that any particular defendant joined the alleged conspiracy must be considered separately with respect to each defendant.

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1 Dated: January 9, 2013

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19 **ATTESTATION:** The filer attests that concurrence in the filing of this document has been  
20 obtained from all signatories.  
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